

105TH CONGRESS
1ST SESSION

H. R. 3072

To amend title XIX of the Social Security Act and title XXVI of the Public Health Service Act with respect to treatments regarding infection with the virus commonly known as HIV.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 1997

Ms. PELOSI (for herself, Mr. GEPHARDT, Mrs. MORELLA, Mr. CUMMINGS, Mr. FRANK of Massachusetts, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BONIOR, Ms. DELAURO, Mr. ENGEL, Ms. ESHOO, Mr. FARR of California, Mr. FAZIO of California, Mr. FILNER, Mr. FROST, Mr. GUTIERREZ, Mr. HINCHEY, Mr. LANTOS, Mr. McDERMOTT, Mr. MCGOVERN, Mrs. MALONEY of New York, Mr. MATSUI, Mr. MEEHAN, Mrs. MEEK of Florida, Ms. MILLENDER-McDONALD, Mr. MILLER of California, Mrs. MINK of Hawaii, Mr. PAYNE, Ms. SANCHEZ, Mr. TOWNS, Ms. WATERS, Ms. WOOLSEY, Ms. ROYBAL-ALLARD, and Ms. JACKSON-LEE of Texas) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend title XIX of the Social Security Act and title XXVI of the Public Health Service Act with respect to treatments regarding infection with the virus commonly known as HIV.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “HIV Treatment Im-
3 provement Act of 1997”.

4 **SEC. 2. MEDICAID COVERAGE OF HIV-INFECTION-RELATED**
5 **DRUG TREATMENT FOR CERTAIN INDIVID-**
6 **UALS.**

7 (a) IN GENERAL.—Section 1902 of the Social Secu-
8 rity Act (42 U.S.C. 1396a) is amended—

9 (1) in subsection (a)(10)—

10 (A) by striking “and” at the end of sub-
11 paragraph (E);

12 (B) by adding “and” at the end of sub-
13 paragraph (F); and

14 (C) by inserting after subparagraph (F)
15 the following new subparagraph:

16 “(G) for making medical assistance avail-
17 able for HIV-infection-related drug treatment
18 (as defined in subsection (aa)(2)) for certain
19 HIV-infected individuals (as defined in sub-
20 section (aa)(1));”; and

21 (2) by adding at the end the following new sub-
22 section:

23 “(aa)(1) HIV-infected individuals described in this
24 paragraph are individuals not described in subsection
25 (a)(10)(A)(i)—

26 “(A) who have HIV infection;

1 “(B) whose income (as determined under the
2 State plan under this title with respect to disabled
3 individuals) does not exceed the maximum amount
4 of income a disabled individual described in sub-
5 section (a)(10)(A)(i) may have and obtain medical
6 assistance under the plan; and

7 “(C) whose resources (as determined under the
8 State plan under this title with respect to disabled
9 individuals) do not exceed the maximum amount of
10 resources a disabled individual described in sub-
11 section (a)(10)(A)(i) may have and obtain medical
12 assistance under the plan.

13 “(2) For purposes of subsection (a)(10), subject to
14 paragraph (3), the term ‘HIV-infection-related drug treat-
15 ment’ means each of the following services to monitor and
16 treat HIV infection through drug treatment:

17 “(A) Prescribed drugs.

18 “(B) Physicians’ services and services described
19 in section 1905(a)(2).

20 “(C) Diagnostic tests described in paragraphs
21 (3) and (13) of section 1905(a).

22 “(D) Services, such as substance abuse and
23 mental health treatment and medical case manage-
24 ment services, to the extent required in order to as-
25 sure compliance with a regimen of drug treatment.

1 “(3) HIV-infection-related drug treatment under a
 2 State plan shall be such services described in paragraph
 3 (2) as meet the needs of HIV-infected individuals, based
 4 on the most current national guidelines that are recog-
 5 nized by the Secretary and that relate to the treatment
 6 of HIV infection through drug treatment and without re-
 7 gard to any prescription drug formulary that would other-
 8 wise be applied under the State plan.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 1902(a)(10) of such Act (42 U.S.C.
 11 1396a(a)(10)) is further amended, in the matter fol-
 12 lowing subparagraph (G), as inserted by subsection
 13 (a)(1)—

14 (A) by striking “and” before “(XIII)”, and

15 (B) by inserting before the semicolon at
 16 the end the following: “and (XIV) the medical
 17 assistance made available to an individual de-
 18 scribed in subparagraph (G) who is eligible for
 19 medical assistance only because of such sub-
 20 paragraph shall be limited to medical assistance
 21 for HIV-infection-related drug treatment (as
 22 defined in subsection (aa)(2))”.

23 (2) Section 1905(a) of such Act (42 U.S.C.
 24 1396d(a)) is amended, in the matter before para-
 25 graph (1)—

1 (A) by striking “or” at the end of clause

2 (x),

3 (B) by adding “or” at the end of clause

4 (xi), and

5 (C) by inserting after clause (xii) the fol-
6 lowing new clause:

7 “(xii) individuals described in section
8 1902(aa)(1);”.

9 (c) EFFECTIVE DATE.—(1) Except as provided in
10 paragraph (2), the amendments made by subsections (a)
11 and (b) shall apply to calendar quarters beginning on or
12 after the date of the enactment of this Act, without regard
13 to whether or not final regulations to carry out such
14 amendments have been promulgated by such date.

15 (2) In the case of a State plan for medical assistance
16 under title XIX of the Social Security Act which the Sec-
17 retary of Health and Human Services determines requires
18 State legislation (other than legislation appropriating
19 funds) in order for the plan to meet the additional require-
20 ments imposed by the amendments made by subsections
21 (a) and (b), the State plan shall not be regarded as failing
22 to comply with the requirements of such title solely on the
23 basis of its failure to meet these additional requirements
24 before the first day of the first calendar quarter beginning
25 after the close of the first regular session of the State leg-

1 legislature that begins after the date of the enactment of this
 2 Act. For purposes of the previous sentence, in the case
 3 of a State that has a 2-year legislative session, each year
 4 of such session shall be deemed to be a separate regular
 5 session of the State legislature.

6 **SEC. 3. PUBLIC HEALTH SERVICE ACT; MODIFICATIONS TO**
 7 **PROGRAM OF TREATMENTS FOR HIV DIS-**
 8 **EASE.**

9 (a) REQUIREMENTS REGARDING TYPES OF TREAT-
 10 MENTS.—Section 2616(c) of the Public Health Service
 11 Act (42 U.S.C. 300ff–26(c)) is amended—

12 (1) in the matter preceding paragraph (1), by
 13 striking “the State shall—” and inserting “the
 14 State—”;

15 (2) by redesignating paragraphs (3) through
 16 (5) as paragraphs (5) through (7);

17 (3) by striking paragraphs (1) and (2); and

18 (4) by inserting before paragraph (5) (as redes-
 19 ignated by paragraph (2)) the following paragraphs:

20 “(1) shall determine, in accordance with guide-
 21 lines issued by the Secretary, which treatments and
 22 which laboratory services are to be included in the
 23 program under subsection (a);

24 “(2) shall provide for the medical administra-
 25 tion of such drugs in accordance with guidelines is-

1 sued by the Secretary for treatments described in
 2 subsection (a) (or in accordance with guidelines rec-
 3 ognized by the Secretary as appropriate guidelines
 4 for such treatment);

5 “(3) shall not for purposes of this section adopt
 6 any policy medically inconsistent with the guidelines
 7 of the Secretary that are referred to in paragraphs
 8 (1) and (2);

9 “(4) shall provide assistance for the purchase of
 10 treatments and laboratory services included in the
 11 program, and the provision of such ancillary devices
 12 as are essential to administer the treatments;”.

13 (b) NON-FEDERAL CONTRIBUTIONS AS CONDITION
 14 FOR RECEIPT OF CERTAIN AMOUNTS.—Section
 15 2618(b)(2)(H) of the Public Health Service Act (42
 16 U.S.C. 300ff–28(b)(2)(H)) is amended to read as follows:

17 “(H) APPROPRIATIONS FOR TREATMENT
 18 DRUG PROGRAM.—

19 “(i) With respect to the fiscal year in-
 20 volved, if under section 2677 an appropria-
 21 tions Act provides an amount exclusively
 22 for carrying out section 2616, the portion
 23 of such amount allocated to a State shall,
 24 subject to clause (ii), be the product of—

1 “(I) 100 percent of such amount;
2 and

3 “(II) the percentage constituted
4 by the ratio of the State distribution
5 factor for the State (as determined
6 under subparagraph (B)) to the sum
7 of the State distribution factors for all
8 States.

9 “(ii)(I) In the case of a State for
10 which the allocation determined under
11 clause (i) for the fiscal year involved ex-
12 ceeds \$1,000,000, the State may not re-
13 ceive the allocation unless the State agrees
14 that, with respect to the costs to be in-
15 curred by the State in carrying out section
16 2616, the State will make available (di-
17 rectly or through donations from public or
18 private entities) non-Federal contributions
19 toward such costs in an amount that is not
20 less than 20 percent of such costs (\$1 for
21 each \$4 of Federal funds provided in the
22 allocation).

23 “(II) Non-Federal contributions re-
24 quired in clause (i) may be in cash or in
25 kind, fairly evaluated, including plant,

1 equipment, or services. Amounts provided
2 by the Federal Government, and any por-
3 tion of any service subsidized by the Fed-
4 eral Government, may not be included in
5 determining the amount of such non-Fed-
6 eral contributions.”.

7 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
8 Section 2616 of the Public Health Service Act (42 U.S.C.
9 300ff–26) is amended—

10 (1) in subsection (a)—

11 (A) by striking “to provide” and all that
12 follows through “prevent” and inserting “to
13 provide treatments for HIV disease and for the
14 prevention of”; and

15 (B) by inserting before the period “, and
16 to provide related laboratory services”; and

17 (2) in subsection (c)—

18 (A) in each of paragraphs (5) through (7)
19 (as redesignated by subsection (a)(2) of this
20 section), by inserting “shall” after the para-
21 graph designation; and

22 (B) in paragraph (7) (as so redesignated),
23 by striking “progress” and all that follows
24 through “subsection (a)” and inserting

1 “progress made in making treatments described
2 in subsection (a)”.

3 **SEC. 4. PUBLIC HEALTH SERVICE ACT; MINIMUM GRANT**
4 **UNDER CARE GRANT PROGRAM REGARDING**
5 **HIV DISEASE.**

6 Section 2618(b)(1)(A) of the Public Health Service
7 Act (42 U.S.C. 300ff-28(b)(1)(A)) is amended to read as
8 follows:

9 “(A) each of the several States and the
10 District of Columbia for a fiscal year shall be
11 the greater of—

12 “(i) \$250,000; or

13 “(ii) an amount determined under
14 paragraph (2); and”.

○